

### **Remarks and Arguments**

Claims 1, 2, 4-6, and 11-15 are pending in this application. Claim 1 has been amended to particularly point out the invention. Support for this amendment is found in the specification on page 3, lines 15-18 and figures 1 and 2.

#### **35 U.S.C. § 103**

Claims 1, 2, 4-6, and 11-15 stand rejected as allegedly unpatentable over U.S. Patent No. 5,680,960 (hereinafter "Keyes") in view of U.S. Patent No. 5,135,485 (hereinafter "Cohen") and further in view of U.S. Patent No. 6, 299,020 (hereinafter "Sudolcan"). Additionally, claim 5 stands rejected in view of the same three references and further in view of U.S. Patent No 4,262,542 (hereinafter "Freund"). The rejections are addressed below.

#### **Claims 1, 2, 4-6, and 11-15**

Applicant believes the instant amendment to claim 1 obviates the rejections of record. Applicant submits that Sudolcan discloses either using photo-detection alone or photo-detection combined with capacitance, but not capacitance alone. In contrast, the amendment to the claim recites the fill tube assembly further consists of a means for continuously and electronically measuring fluid volume therein, said means consisting of a pair of electroconductive terminals and thus does not include a combination of capacitance and photo-detection.

Applicant further notes that without Sudolcan no motivation exists to combine any of the other references of record. Accordingly, Applicant believes the claimed invention is not prima facie obvious and thus respectfully requests withdrawal of the rejection.

### **CONCLUSION**

In view of the foregoing remarks, Applicant respectfully requests the reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account.

Respectfully submitted



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March 8, 2006  
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